

E-015/GR-87-223 VARYING TIME TO ANSWER PETITION FOR RECONSIDERATION

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Barbara Beerhalter	Chair
Cynthia A. Kitlinski	Commissioner
Norma McKanna	Commissioner
Robert J. O'Keefe	Commissioner
Darrel L. Peterson	Commissioner

In the Matter of the Petition of Minnesota Power and Light Company, d/b/a Minnesota Power, for Authority to Change its Schedule of Rates for Retail Electric Service in the State of Minnesota

ISSUE DATE: February 22, 1989

DOCKET NO. E-015/GR-87-223

ORDER VARYING TIME TO ANSWER  
PETITION FOR RECONSIDERATION

PROCEDURAL HISTORY

On May 1, 1988 the Commission issued its Findings of Fact, Conclusions of Law, and Order in the above-captioned general rate case. On May 16 the Commission issued its Order After Reconsideration and Rehearing in the same proceeding. On October 19, 1988 Minnesota Power and Light Company (Minnesota Power or the Company) filed a Petition to Amend Orders to Suspend AFPO Credit.

In that Petition the Company asked the Commission to amend the May 1 and May 16 Orders in light of subsequent developments and to suspend the Company's obligation to flow through to ratepayers an Allowance for Plant Phase Out (AFPO). AFPO represented the gain the Company expected to realize from an upcoming sale of 40% of its Boswell 4 plant to another utility. That transaction was now in jeopardy, and the Company sought both a suspension of the AFPO flow-through and a return of all amounts it had already flowed through to ratepayers.

On January 11, 1989 the Commission denied the petition without prejudice, finding that it could not consider the AFPO issue in isolation and that the Company had not presented sufficient information to allow thoroughgoing review of all essential issues. On January 31, 1989 the Company filed a petition for reconsideration.

On February 10, 1989 the Company filed a request for suspension of its petition for reconsideration. The Company stated that it was working with other parties to the rate case to develop a joint proposal on AFPO and related issues, and that such a joint petition should be submitted and considered in the context of any reconsideration of AFPO-related matters.

On February 10, 1989 all parties to the joint AFPO proposal (the Residential Utilities Division of the Office of the Attorney General, the Department of Public Service, the taconite intervenors, and

the Company) filed a joint request that the Commission vary the ten day time period for filing answers to petitions for reconsideration under Minn. Rules, part 7830.4100. They asked that the Commission address the joint proposal before the reconsideration petition, and defer answers to the reconsideration petition until it came before the Commission. The parties anticipated that the Company would withdraw the petition for reconsideration if the Commission accepted the joint AFPO proposal.

On February 21 the Commission granted the Company's request to defer consideration of the petition for reconsideration until the joint AFPO proposal had been addressed.

### FINDINGS AND CONCLUSIONS

The Commission may grant a variance to any of its rules upon finding that the following conditions apply:

1. Enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule;
2. Granting the variance would not adversely affect the public interest; and
3. Granting the variance would not conflict with standards imposed by law.

Minn. Rules, part 7830.4400.

The Commission finds that the requirements for granting a variance are met in this case. Enforcement of the rule would impose an excessive burden upon the applicants, who would be forced to file premature responses to a petition for reconsideration which may never be heard. Granting the variance would not adversely affect the public interest, but would serve the public interest by conserving the resources of the Commission and the parties. Finally, granting the variance would not conflict with any applicable legal standards.

The requirements for granting a variance have been met. The Commission will vary the time period for filing answers to the Company's petition for reconsideration until a date to be set by future Commission Order.

### ORDER

1. The 10-day time period for filing answers to the Company's petition for reconsideration is varied to allow answers to be filed in accordance with a time frame to be established by future Commission Order.

2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Mary Ellen Hennen  
Executive Secretary

(S E A L)